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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/519,915	09/15/2005	Bernard Guglielmini	044195-3130	3005

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EXAMINER	
DOUYON, LORNA M	
ART UNIT	**PAPER NUMBER**
1761	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/519,915	GUGLIELMINI ET AL.	
	Examiner	Art Unit	
	Lorna M. Douyon	1761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *04 March 2010*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-11 and 13-23* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-11 and 13-21* is/are rejected.

7)☒ Claim(s) *22-23* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *3/5/10;4/2/10;4/12/10*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on March4, 2010 has been entered.

2. Claims 1-11 and 13-23 are pending. Claim 12 is cancelled. Claims 2-11, 13-17 are currently amended. Claims 18-23 are newly added.

Claim Objections

3. Claim 18 is objected to because of the following informalities: the limitations in item (a) (ii), i.e, lines 6-7, appear to be a repetition of the limitations in item (a) (i). Appropriate correction is required.

Claim Rejections - 35 USC § 103

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Claims 1-7, 9-11, 13-15, 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Catlin et al. (US Patent No. 7,125,828), hereinafter “Catlin”.

Catlin teaches a water-soluble pouch which comprises a plurality of compartments in generally superposed or superposable relationship, for example, the plurality of compartments can be symmetrically arranged one above another, side by side (such that they can be folded into a superposed relationship) or any other convenient disposition provided that the compartments are superposable in use, each containing one or more detergent active or auxiliary components (see abstract; col. 3, lines 53-59). Water-soluble film of different thickness can be used to obtain differential dissolution under in-use conditions (see col. 5, lines 62-64; col. 19, lines 57-61). Rectangular pouches inherently have regions of different film thickness on the film and this can contribute to improve the dissolution profile of the pouch (see col. 7, lines 42-45). Preferred pouch materials are polymeric materials such as polyvinyl alcohols or polysaccharides including starch (see col. 14, lines 29-42). The open pouches can be formed using thermoforming (see col. 7, lines 46-49), which are covered, closed and sealed with film closure means after filling (see col. 9, lines 1-4). In the process of making the pouch, Catlin teaches that the film can be held with grips or clips on the edges of the surface where there are no moulds (see col. 22, lines 16-22). Catlin, however, fails to specifically disclose at least part of the wall of at least one chamber will dissolve before the remainder wall of the chamber, the at least part of the wall which dissolves before the remainder wall dissolves defining a releasable part which is released undissolved, as required in claim 1, wherein the releasable part is a panel, and at least part of the wall at least partly surrounds the panel as required in claim 2 and

independent claim 18; a clip as required in claims 3 and 19; wherein the pouch is formed by injection moulding as required in claim 6 and 14.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to reasonably expect the thin portion of the water soluble pouch of Catlin to dissolve first, thereby releasing the thick portion which reads on the panel because the water soluble pouch of Catlin has regions of different film thickness. Considering that the water-soluble pouch which comprises a plurality of compartments are in superposed or superposable relationship, it would have been obvious to one of ordinary skill in the art at the time the invention was made to reasonably expect portions of said thin portion to at least partly surround said thick portion.

It would also have been obvious to one of ordinary skill in the art at the time the invention was made to seal the pouch of Catlin with clips because it is shown by Catlin in col. 22, lines 16-22 that the water-soluble film can be held with clips, hence, it would also be reasonable to seal it with clips because it is generally known to seal open pouches with clips.

With respect to the pouch being formed by injection moulding, it should be noted that claims 6 and 14 are product-by-process claims, hence, any difference imparted by the product by process limitations would have been obvious to one having ordinary skill in the art at the time the invention was made because where the examiner has found a substantially similar product as in the applied prior art, the burden of proof is shifted to the applicant to establish that their product is patentably distinct, not the examiner to

show the same process of making, see *In re Brown*, 173 *USPQ 685* and *In re Fessmann*, 180 USPQ 324.

6. Claims 8 and 16 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Catlin as applied to the above claims, and further in view of Desmarais et al. (US Patent No. 6,484,879), hereinafter "Desmarais" for the reasons set forth in the previous office action, which is repeated below for Applicants' convenience.

Catlin teaches the features as described above. Catlin, however, fails to disclose polylactic acid as the material for the water-soluble container.

Desmarais, an analogous art, teaches the equivalency of polyvinyl alcohol and polylactic acid as water-soluble film materials for a water soluble bag (see claim 24).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute the polyvinyl alcohol of Catlin with polylactic acid because the substitution of art recognized equivalents as shown by Desmarais is within the level of ordinary skill in the art. In addition, the substitution of one water-soluble material for another is likely to be obvious when it does no more than yield predictable results.

7. Claims 1-2, 4-5, 7-11, 13, 15-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roberts et al. (US Patent No. 6,727,215), hereinafter "Roberts".

Roberts teaches an article comprising a first pouch made of water-soluble material, which comprises in its interior (a) a first solid or liquid composition; and (b) a

second pouch made of a water-reactive material, comprising in its interior a second liquid composition, whereby the first pouch and the second pouch are made by thermo-forming or vacuum forming (see abstract; col. 2, lines 25-28; col. 1, claim 1). The first pouch will react in water to release its contents before the second pouch, due to the nature of the construction of the article, and this is achieved by using different thickness of the film material (see col. 3, lines 28-37). The water-soluble or water reactive materials include polyvinyl alcohols, polycarboxylic acids and salts, and polysaccharides including starch and gelatin (see col. 4, lines 6-28). Also useful are polymer blends such as polylactide and polyvinyl alcohol (see col. 4, lines 44-50). Preferably, the first pouch is made of a material which is stretchable (see col. 5, lines 13-14), and preferably, the degree of stretching is non-uniform over the pouch, due to the formation and closing process (see col. 6, lines 6-8). The material is stretched such that the thickness variation in the pouch formed of the stretched is from 10 to 1000% (see col. 6, lines 16-21). In an alternative embodiment, the second pouch is not contained within the first pouch, but it placed side-by-side with the second pouch (see col. 7, lines 28-31). Roberts, however, fails to disclose at least part of the first wall of the pouch will dissolve before the remainder wall of the pouch, wherein at least part of the wall which dissolves defines a releasable part which is released undissolved.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to reasonably expect the at least one wall of the first pouch of Roberts to be released undissolved, once the thinner portions of the non-uniform thicknesses of the first pouch of Robert is dissolved because Roberts teaches that the

first pouch has non-uniform thickness over the pouch, hence, it is expected that the thinner portions dissolve first, and therefore, would release the thicker portion of the wall of the pouch (or panel).

8. Claims 3 and 19 rejected under 35 U.S.C. 103(a) as being unpatentable over Roberts as applied to the above claims, and further in view of Mandler et al. (US Patent No. 5,573,698), hereinafter "Mandler".

Roberts teaches the features as described above. Roberts, however, fails to disclose a clip element which retains the releasable part until it is dissolved.

Mandler, an analogous art, teaches that a container 40 is closed with a water-soluble foil 41 that is applied over the container opening by hot-sealing, gluing, mechanical fastening and that is supported by the screwed-on screw-type cover during transport. When introduced into a dosing means 80 with the opening in downward direction and when the foil 41 is rinsed with water, potentially while being heated, this foil 41 dissolves in a short time, so that the powdered or granulated contents can trickle onto the strainer insert 81 (see col. 10, lines 11-31).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have sealed the opening of the pouch of Roberts by mechanical fastening, which is functionally equivalent to a clip, because it is known from Mandler that sealing of a pouch is done by such method to prevent trickling of the contents of the container.

9. Claims 6 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roberts as applied to the above claims, and further in view of Cao et al. (6,492,315), hereinafter “Cao”.

Roberts teaches the features as described above. In addition, Roberts teaches that other methods of forming the shape of the pouch can be used (see col. 18, lines 32-35). Roberts, however, fails to disclose a pouch made by injection moulding.

Cao, an analogous art, teaches that water-soluble containers can be in the form of a sachet, a blow molded capsule or other blow molded shapes, an injected molded ampoule or other injection molded shapes (see col. 3, lines 22-26).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have prepared the water-soluble pouch of Roberts by injection moulding because Roberts specifically desires other methods of forming the pouch in col. 18, lines 32-35, and Cao teaches such method in an analogous art.

10. Claims 1-2, 4-7, 9-11, 13-15, 17-18, 20-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Scott et al. (WO 03/016165), hereinafter "Scott”.

Scott teaches a controlled release packaging comprising packaging material which is at least partially or substantially completely dispersible or dissolvable in an effective amount of a water-containing substance and which is adapted to comprise, contain or enclose one or more substances wherein the packaging is adapted for release of comprised, contained or enclosed substances in response to a

predetermined stimulus in predetermined manner to a desired locus with substantially simultaneous or subsequent partial or complete dispersal or dissolving thereof (see abstract). The water-dispersible or soluble packaging material comprises a natural or synthetic polymer or mixtures thereof, for example, polyvinyl alcohol (PVA), and modified starches (see page 5, line 23 to page 6, line 9). The packaging may be of any desired conformation and configuration suited to contain or enclose a solid or fluid substance and can be in the form of solid or hollow masses, hollow containers or closures such as capsules, bags, wallets or sachets, spherical, pyramidal, elongate, annular or conical bags and the like or closures such as membranes, partitions, caps, lids and the like (see page 7, lines 1-6). The packaging may comprise primary packaging material having secondary points of weakness in the form of packaging material formulated for rapid or easy dissolving or fracture, or of flaws or water entraining features such as moulding or embossing in the form of non-penetrating perforations, tear-off strip lines and the like. Primary and secondary structures and layers and point of weakness packaging material may be comprised of the same or different packaging materials and combinations thereof, having same or different properties such as thickness and the like (underlining supplied; see page 7, line 21 to page 8, line 1). The packaging may be formed by any known means for forming packaging materials (see page 10, lines 1-6). Packaging may be provided within an additional film or container if it is important to keep the surface free from contamination (underlining supplied; see page 13, lines 1-2). Figure la shows a capsule (which is construed to be flexible) having central monolayer of rapid dissolve packaging material

and peripheral bilayers of rapid-slow and slow-rapid dissolve packaging material respectively, adapted to provide a weak link or point of weakness. In Figure Ib is shown a capsule having central and peripheral monolayers of rapid dissolve and slow dissolve packaging materials respectively and peripheral bilayer of rapid-slow dissolve packaging material, as an alternative to the configuration of Figure Ia (see page 18, lines 12-20). Figures Ig shows a capsule comprising a rapid dissolve monolayer peripheral shell (11f) enclosing substance and inner secondary peripheral shell (IId), abutting or overlap sealed to the capsules remote peripheral shell (IId). The capsule may be suited to enclose two same or different substances with staged release, with rapid release of one substance via the rapid dissolve shell (11f) and subsequent release of the second substance by slow dissolve of capsule (11d, 11d) (see page 19, lines 14-19). In Figures Ih and Ii are shown packaging in the form of a primary dipped bag or wallet (14) which is filled and sealed, with a separate cap portion (15) (which reads on lid) or by self- sealing by crimping (16) as illustrated (see page 19, lines 20-26). Scott, however, fails to specifically disclose the at least part of the wall which dissolves before the remainder wall dissolves defining a releasable part which is released undissolved, as required in claim 1, wherein the releasable part is a panel, as required in claim 2; wherein the pouch is formed by injection moulding as required in claim 6 and 14; wherein the at least part of the wall which dissolves before the remainder wall dissolves at least partly surrounds the panel as required in independent claim 18; and a lid comprising a panel as required in independent claim 21.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to reasonably expect that when the central monolayer of rapid dissolve packaging material dissolves, as in Figures 1a and 1b, the peripheral bilayers would read on the releasable part or panel, and it would be expected that, at the time of release, the peripheral bilayers would be undissolved.

With respect to the pouch being formed by injection moulding, it should be noted that claims 6 and 14 are product-by-process claims, hence, any difference imparted by the product by process limitations would have been obvious to one having ordinary skill in the art at the time the invention was made because where the examiner has found a substantially similar product as in the applied prior art, the burden of proof is shifted to the applicant to establish that their product is patentably distinct, not the examiner to show the same process of making, see *In re Brown*, 173 *USPQ 685* and *In re Fessmann*, 180 USPQ 324.

With respect to the panel being at least partly surrounded by the wall which dissolves before the remainder wall dissolves, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have partly surrounded the panel, i.e., 11d as in Figure 1g with 11f which reads on the wall which dissolves before the remainder wall dissolves because the teachings of Scott encompass this aspect.

With respect to the lid comprising a panel, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have prepared the lid with a material having different film thicknesses, thereby defining a panel, because Scott

discloses on page 7, line 21 to page 8, line 1 that the packaging material may be have different thicknesses.

11. Claims 8 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Scott as applied to the above claims, and further in view of Desmarais.

Scott teaches the features as described above. Scott, however, fails to disclose polylactic acid as the material for the water-soluble packaging material.

Desmarais, an analogous art, teaches the equivalency of polyvinyl alcohol and polylactic acid as water-soluble film materials for a water soluble bag (see claim 24).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute the polyvinyl alcohol of Scott with polylactic acid because the substitution of art recognized equivalents as shown by Desmarais is within the level of ordinary skill in the art. In addition, the substitution of one water-soluble packaging material for another is likely to be obvious when it does no more than yield predictable results.

Allowable Subject Matter

12. Claims 22-23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The following is a statement of reasons for the indication of allowable subject matter: None of the prior art of record teaches, discloses or suggests a water soluble container as that recited, in particular wherein the

lid is held onto the housing by a clip extending from the periphery of the housing and wherein the clip engages under a bead formed around the outside of said housing.

Response to Arguments

13. Applicants' arguments filed on March 4, 2010 have been fully considered but they are not persuasive.

With respect to the obviousness rejection based upon Catlin, Applicants argue that Applicants' claimed invention can be limited to one chamber; or, there can be a plurality of distinctly formed chambers which are *not superposed* upon each other as in Catlin.

The Examiner respectfully disagrees with the above arguments because the limitation "at least one discrete chamber" also includes chambers which are superposed as in Catlin and there is nowhere in the claims wherein the non-superposed chambers are excluded.

Applicants also argue that Catlin does not teach the selective thinning of the Applicants' container; and the clips of Catlin are clearly not the clips of the Applicants.

The Examiner respectfully disagrees with the above arguments because in col. 5, lines 62-64, and col. 19, lines 57-61, Catlin teaches that water-soluble film of different thickness can be used to obtain differential dissolution under in-use conditions, and in col. 7, lines 42-45, Catlin teaches that rectangular pouches inherently have regions of different film thickness on the film and this can contribute to improve the dissolution

profile of the pouch. With respect to the clips, Catlin teaches in col. 22, lines 16-22 that the film can be held with grips or clips.

With respect to the obviousness rejection of claims 8 and 16, Applicants argue that these claims enjoy the allowability of their parent claim 1 as discussed above.

The above response to Catlin applies here as well.

Conclusion

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The reference is considered cumulative to or less material than those discussed above.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lorna M. Douyon whose telephone number is 571-272-1313. The examiner can normally be reached on Mondays-Fridays 8:00AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Lorna M Douyon/
Primary Examiner, Art Unit 1761